

APR 26 2007

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Title: data normalization

Application Number: 09/995,058

Filing Date: Monday, November 26, 2001

First Named Inventor: Schnitzer, Jason K.

Group Art Unit: 2151

Examiner Name: Tran, Nghi

15 pages of appeal brief

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for

Attorney Docket Number: FSP0149
Client Reference Number: 260146US
Title: data normalization
Application Number: 09/995,058
Filing Date: Monday, November 26, 2001
First Named Inventor: Schnitzer, Jason K.
Group Art Unit: 2151
Examiner Name: Tran, Nghi

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FEE TRANSMITTAL

for

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Examiner Name: Tran, Nghi

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Submitted by:

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APPEAL BRIEF

for

Attorney Docket Number: FSP0149
Client Reference Number: 260146US
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Group Art Unit: 2151
Examiner Name: Tran, Nghi

Appeal is taken from the Examiner's most recent office action mailed on March 26, 2007.

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Title: data normalization
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REAL PARTY IN INTEREST

The real party in interest is

Broadband Royalty Corporation
1105 North Market St.
Suite 1300
Wilmington, DE, USA

the assignee and/or owner of all rights and interest in the subject matter of this appeal.

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RELATED APPEALS AND INTERFERENCES

None.

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STATUS OF CLAIMS

Claims 1 and 3-22 are presently pending.

Claim 2 is cancelled, without prejudice.

Claims 11-22 are withdrawn from consideration.

Claims 1 and 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dziekan et al. (U.S. Pat. No. 6,704,288) in view of Agarwal et al. (U.S. Patent Application Publication No. 2003/0028642).

Claims 1, 3, 4, 8, 9, and 10 are the subject of this appeal.

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STATUS OF AMENDMENTS

No amendments were filed after final rejection.

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SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 describes a system for use with a broadband network, including a data collector 34 36 38 coupled to obtain network performance metrics from network elements in the at least a portion of the broadband network p9, lines 9-15. The system also includes logic 44 to normalize the performance metrics by applying device-specific information for the network elements from which the network performance metrics were obtained p12, line 14 – p13, line 7.

Independent claim 8 describes a computer program product including instructions to direct a computer to obtain network performance metrics from broadband network elements p10 lines 4-13, and to use network management instrumentation associated with the broadband network elements to determine which of multiple calibration algorithms to apply to the obtained network performance metrics p14 lines 9-14. The instructions also cause the computer to normalize the obtained network performance metrics using the determined calibration algorithm, to yield normalized network performance metrics p14 lines 9-22, p22 lines 9-13. The network performance metrics are adjusted, as appropriate, such that a first network performance metric from a first network element and having a first value, and a second network performance metric, from a second network element and of a similar type as the first network performance metric, and having a second value, different from the first value, yield first and second normalized network performance metrics p19 line 6 – p21 line 30, p23 lines 4-11.

Claims 3 and 10 recite that the device-specific information used to normalize the performance metrics includes at least one of make, model, hardware version, software version, and element settings associated with each of the network elements p7 line 19 – p8 line 7, p12 line 14 – p13, line 7.

Claims 4 and 9 describe obtaining at least one of Management Information Base objects and command line interface information from the network elements and determining the device-specific information from the at least one of Management Information Base objects and command line interface information p7 line 19 – p8 line 17, p13 lines 8-16.

Note that claims 3 and 4 should properly depend from claim 1, not cancelled claim 2.

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GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Are claims 1, 3, 4, 8, 9, and 10 unpatentable under 35 U.S.C. 103(a) over Dziekan et al. (U.S. Pat. No. 6,704,288) in view of Agarwal et al. (U.S. Patent Application Publication No. 2003/0028642)?

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ARGUMENTS

Please consider the following arguments in favor of withdrawing the claim rejections.

Are claims 1, 3, 4, 8, 9, and 10 unpatentable under 35 U.S.C. 103(a) over Dziekan et al. (U.S. Pat. No. 6,704,288) in view of Agarwal et al. (U.S. Patent Application Publication No. 2003/0028642)?

Claims 1 and 8

Claims 1 and 8 recite, inter alia, normalizing performance metrics by applying device-specific information for the network elements from which the network performance metrics were obtained. The most recent Office Action relies on Dziekan, Col. 5, line 36-58, for a teaching of such features. At col. 5, line 36-58, Dziekan teaches that "device-configuration module 190 is used in manager 100 of the present invention to allow service providers (e.g., 103, 105, . . . , 107) to set specific parameters of the network elements (e.g., 102, 104, . . . , 106) for operation or test purposes. As an example, diagnosis element 160, upon receiving a query from, for example, data service provider 105, can use device-configuration entity 190 to set the network elements (for example, cable modem 102) in a test mode."

In particular, Dziekan describes configuring network devices into different modes, whereas the claims describe applying device-specific information to normalize performance metrics. There is not even any indication in Dziekan that the device configuration module 190 collects and uses device-specific information at all, let alone to process performance metrics.

Agarwal, paragraph 0078 teaches that "the monitored information is also fed to the Aggregator 120, which accumulates and normalizes the metrics in some meaningful fashion. This leads to metrics on the global usage of each resource class, as well as the usage by each customer."

Agarwal does not teach normalizing performance metrics according to device-specific information. Agarwal merely teaches that the metrics are normalized in "some meaningful fashion". There is no teaching in either reference relied upon of applying device specific information to

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normalization. Applying the device configuration of Dziekan to the normalizer of Agarwal would result in a system whereby network devices could be configured (according to Dziekan), and performance data was normalized in "some meaningful fashion" (according to Agarwal), but it would not result in a system where device-specific information is used to normalize performance data.

Agarwal, paragraph 0078 teaches that "this latter usage is compared with the permissible range set in the customer's service level agreement. Based on these numbers, the Aggregator 120 determines whether any changes are required to the current resource allocation for each customer, and suggests these to the Global Decision Maker 140."

Thus, Argawal even suggests that the normalization is according to customer usage, not device-specific information.

Claims 3 and 10

Claims 3 and 10 describe that the device-specific information includes at least one of make, model, hardware version, software version, and element settings associated with each of the network elements.

Dziekan, Col. 5, line 36-58 and col. 10, lines 27-57 teaches that "device-configuration entity 190 can also be used by service manager 120 to configure certain pre-defined parameters of the network elements."

There is no teaching anywhere in either reference of applying make, model, hardware version, software version, or element settings to the normalization of network performance parameters.

A mere general statement in Dziekan of device-specific configuration does not rise to the level of teaching normalization of performance metrics using one or more of device make, model, hardware version, software version, and element settings.

Claims 4 and 9

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Claims 4 and 9 recite obtaining at least one of Management Information Base objects and command line interface information from the network elements and further to determine the device-specific information from the at least one of Management Information Base objects and command line interface information.

Dziekan, Col. 4, lines 5-34 teaches that “service manager 120 can determine if a service provider is authorized to access management information base (MIB) objects of the network elements and receive reports of the network elements' failures.”

Dziekan teaches accessing the MIB to receive reports of the device's failure. Dziekan does not teach that the MIB is accessed for device-specific information for use in normalizing network performance metrics.

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CLAIMS APPENDIX

1. A system for use with a broadband network, the system comprising:
a data collector coupled to obtain network performance metrics from network elements in the at least a portion of the broadband network; and
logic to normalize the performance metrics by applying device-specific information for the network elements from which the network performance metrics were obtained.
2. (Cancelled)
3. The system of claim 2 wherein the device-specific information includes at least one of make, model, hardware version, software version, and element settings associated with each of the network elements.
4. The system of claim 2 wherein the data collector is further configured to obtain at least one of Management Information Base objects and command line interface information from the network elements and the logic is further to determine the device-specific information from the at least one of Management Information Base objects and command line interface information.
5. The system of claim 1 wherein the network performance metrics are remotely-accessible standard management instrumentation.
6. The system of claim 5 wherein the broadband network is a Data Over Cable Service Interface Specification network and the network performance metrics include at least one of signal-to-noise ratio, power level, equalizer coefficients, settings information, error information, counter information, bandwidth, quality of service, latency, and jitter.

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7. The system of claim 1 wherein the logic comprises software instructions and a computer processor configured to read and execute the software instructions.

8. A computer program product residing on a computer-readable medium and including computer-executable instructions for causing a computer to:

obtain network performance metrics from broadband network elements;

use network management instrumentation associated with the broadband network elements to

determine which of multiple calibration algorithms to apply to the obtained network performance metrics; and

normalize the obtained network performance metrics using the determined calibration algorithm to yield normalized network performance metrics by adjusting the obtained network performance metrics, as appropriate, such that a first network performance metric from a first network element and having a first value and a second network performance metric, from a second network element and of a similar type as the first network performance metric, and having a second value, different from the first value, yield first and second normalized network performance metrics.

9. The computer program product of claim 8 wherein the network management instrumentation includes Management Information Base objects and the instructions for causing the computer to use the network management instrumentation are for causing the computer to identify the first and second network elements using the Management Information Base objects.

10. The computer program product of claim 9 wherein the instructions for causing the computer to identify the first and second network elements cause the computer to determine at least one of make, model, hardware version, software version, and settings of each of the first and second network elements.

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EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

None

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Submitted by:

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